

Application No.: 10/551,226  
Attorney Docket No.: 053125  
Amendment under 37 CFR §1.111

### **REMARKS**

Claims 1-5 and 9 are pending in the present application. Claim 6 is herein canceled.  
Claim 9 is newly added. No new matter has been entered.

#### **Claim Rejections - 35 U.S.C. § 101**

Claim 6 was rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Office Action states that the “use of a product” as recited in claim 6 does not fall within at least one of the four categories of patent eligible subject matter under § 101, *i.e.*, process, machine, manufacture, or composition of matter.

Claim 6 has been cancelled. New claim 9 is a re-write of claim 6 in a form that falls within patent eligible subject matter under § 101.

Withdrawal of the rejection of claim 6 is requested.

#### **Claim Rejections - 35 U.S.C. § 103**

Claims 1-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **Mang** (US 6,358,580) or **Yamamoto** (US 5,011,875) in combination with either one of **Stockhausen** (US 5,837,789) or **Hahnle** (US 6,136,873).

Favorable reconsideration is requested.

Applicant first notes that the references Mang and Hahnle were not listed in the Examiner’s Notice of References cited. Applicants request that these references be made of record by listing on Form PTO-892.

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Mang discloses a sealing composition for preformed seals which swell when treated with water. The composition comprises a matrix of elastomer components and particle-shaped water absorbing material. Mang discloses that the water absorbing material includes a highly water absorbent synthetic polymer selected from a group of polymers including methacrylate. (Col. 2, lines 40-56.) Mang also discloses the addition of cross-linking agents.

Yamamoto discloses a corrosion resistant, water expandable composition used for gaskets, sealants and caulking materials. The composition includes rubbers or thermoplastic resins mixed with water-absorbable material. The water-absorbable material includes acrylic acid type polymers. (Col. 1, line 62 to col. 2, line 2.)

The Office Action acknowledges that neither Mang nor Yamamoto disclose the specific nonionic hydrophilic acrylates or methacrylates corresponding to the general formula recited in claim 1. (Office Action, page 3.) The Office Action cites both Stockhausen and Hahnle for disclosing this feature.

Stockhausen discloses a polymer composition used as superabsorbers in diapers. The composition is a cross-linked composition of Formulas I, II and III. (Col. 5, lines 28-53.)

Hahnle discloses water-absorbing, expanded, cross-linked polymers for use in hygiene articles and in dressing material for covering wounds. The polymer composition includes monoethylenically unsaturated monomers which contain acidic groups and are at least 50 mol % neutralized, monoethylenically unsaturated monomers and crosslinkers. (Col. 2, lines 26-43.)

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The monoethylenically unsaturated monomers include acrylates and methacrylates. (Col. 3, lines 48-52.)

(1) Applicant respectfully submits that Mang and Yamamoto, each in view of either Stockhausen or Hanle, do not teach or suggest:

wherein the material comprises a crosslinked polymer composition which comprises at least one polymer in which the content of monomer units derived from nonionic hydrophilic acrylates or methacrylates makes up at least 30 mol %

as recited in claim 1.

The Office Action does not allege that any of the references teach this feature or that this feature would have been obvious. The references do not disclose a composition including a polymer in which the content of monomer units derived from nonionic hydrophilic acrylates or methacrylates makes up at least 30 mol %.

(2) Applicant respectfully submits that Mang and Yamamoto in view of Hanle do not teach or suggest a particulate material including a polymer in which monomer units are derived from nonionic hydrophilic acrylates or methacrylates corresponding to the general formula of claim 1.

Hahnle discloses various polymer components; however, Hahnle does not disclose monomer units derived from nonionic hydrophilic acrylates or methacrylates corresponding to the general formula of claim 1.

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(3) Applicants have attached a Declaration under § 1.132 and three publications providing supplementary data to the declaration. The declaration provides test results comparing a super absorber according to the present invention to prior art super absorbers with regard to swelling in aqueous NaCl (4%) and Ca(OH)<sub>2</sub> (10g/l). The attached publications provide information regarding the comparative super absorbers (T5066F, Luquasorb DF and Ki-Gel 210). The super absorber of the present invention provides unexpectedly superior results over the prior art super absorbers regarding swelling and re-swelling after drying.

For at least the foregoing reasons, claim 1 is patentable over the cited references and claims 2-5 and 9 are patentable by virtue of their dependence from claim 1. Accordingly, withdrawal of the rejection of claims 2-5 and 9 is hereby solicited.

In view of the aforementioned amendments and accompanying remarks, Applicant submits that the claims, as herein amended, are in condition for allowance. Applicant requests such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicant's undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicant respectfully petitions for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
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Attachments: Declaration  
Data Sheet Product T 5066 F  
Data Sheet Luquasorb DF  
Data Sheet Ki-Gel